



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0014; Notice 1]

Harbor Freight Tools, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Harbor Freight Tools (HFT) has determined that certain HaulMaster LED trailer light kits manufactured by Changzhou Nanxiashu Tool Company do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. HFT filed a noncompliance report dated February 12, 2021, and subsequently petitioned NHTSA on February 23, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of HFT's petition.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-5304.

SUPPLEMENTARY INFORMATION:

I. Overview:

HFT has determined that certain HaulMaster LED trailer light kits manufactured by Changzhou Nanxiashu Tool Company, do not fully comply with certain photometry requirements of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). HFT filed a noncompliance report dated February 12, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. HFT subsequently petitioned NHTSA on February 23, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of HFT's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Equipment Involved:

Approximately 10,944 HaulMaster LED trailer light kits, manufactured by Changzhou Nanxiashu Tool Company between June 18, 2017, and June 24, 2017, are potentially involved. HFT's HaulMaster LED trailer light kit consists of a pair of replacement trailer lamps to be used on trailers less than 80 inches in overall width.

III. Noncompliance:

HFT explains that the noncompliance is that the subject trailer light kits are equipped with a turn signal and stop function which exceeds the maximum photometric intensity requirements.

IV. Rule Requirements:

Paragraphs S7.1.2, S7.1.2.13, S7.1.2.13.1, S7.3, S7.3.13, and S7.3.13.1 of FMVSS No. 108 include the requirements relevant to this petition. Each rear turn signal lamp must be designed to conform to the photometry requirements of Table VII which specifies the various minimum and maximum photometric intensity requirements for rear turn signal lamps at specified test points, when tested according to the procedure of paragraph S14.2.1, for the number of lamp compartments or individual lamps, the type of vehicle it is installed on, and the lamp color as specified by S7.1.2.2. Each stop lamp must be designed to conform to the photometry requirements of Table IX which specifies the various minimum and maximum photometric intensity requirements for stop lamps at specified test points, when tested according to the procedure of paragraph S14.2.1, for the number of lamp compartments or individual lamps and the type of vehicle it is installed on.

V. Summary of HFT's Petition:

The following views and arguments presented in this section, "V. Summary of HFT's Petition," are the views and arguments provided by HFT. They have not been evaluated by the Agency and do not reflect the views of the Agency.

HFT describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety. In support of its petition, HFT submitted the following reasoning:

1. In late 2018, NHTSA notified HFT that the agency had commissioned Calcoast to conduct FMVSS No. 108 compliance testing. The testing was carried out on samples from a specific batch of the HaulMaster LED trailer light kit, which were all produced in calendar week 25 of 2017. Calcoast's test findings were documented in two test reports dated December 20, 2018. In this case, a total of eight tests were conducted twice on eight samples from the same production batch produced in calendar week 25 of 2017. The test reports indicate that the samples were tested for NHTSA, once in October 2018 for a stabilization value at 30 minutes with 3% change in 15 minutes, and again in

December 2018 for a stabilization value at 60 minutes with 1% change in 5 minutes. A multiplier was applied to achieve $t=1$ minute and $t=10$ minute values for the stop/turn lamps. In each test case, on both testing dates, 19 designated test points passed and 5 groups passed. Harbor Freight stated that the only noncompliance occurred when the beam pattern slightly exceeded the maximum photometric intensity output required by the standard. In the December 2018 testing, 3 out of 8 units passed all elements of the testing and were found to be fully compliant.

2. HFT contends that the trailer light kits' turn signal and stop functions deviate from the requirements only by small margins at the maximum value within the beam pattern and not by a degree that is sufficient enough to be noticeable to other road users or create an increased safety risk. Specifically, in certain individual units, portions of the LEDs have candela values that were above the luminous intensity output provided for turn signal and stop functions in FMVSS No. 108. HFT argues that the deviation from the photometry requirements is slight and all but two instances fall within 25% of the required output. Thus, HFT states, the actual performance of its lamps compared to compliant lamps would not be perceptible to the human eye and, therefore, would not create an enhanced risk to safety.
3. HFT says that historically, NHTSA has granted inconsequentiality petitions when the noncompliance is imperceptible or nearly imperceptible to vehicle occupants or surrounding traffic. When the photometric intensity level is within 25% above or below the boundary limit, the difference in the light being emitted is typically not perceptible to other drivers. According to HFT, this objective metric has been applied to various types of lighting sources, including turn signal lighting.¹ Further, HFT states that NHTSA has also applied this reasoning to noncompliances with particular zones, not just individual

¹ Huey, R., Dekker, D., & Lyons, R. (1994). *Driver perception of just-noticeable differences of automotive signal lamp intensities*. Report No. DOT HS 808 209

test points, as is the case with the HaulMaster lamps.² In all but two of the samples described above, the deviation is within 25% of the required values.

4. HFT says there is no increased risk of glare to oncoming motorists because the photometric exceedances are minimal and in most cases, below the threshold metric of 25% so that the differences are not perceptible to other drivers.³
5. HFT believes that an alternative basis on which to grant the petition is the universal compliance with the photometric requirements in the test points and groups for every lamp Calcoast tested. HFT and its fabricating manufacturer previously conducted confirmatory compliance testing at various intervals before the lamps were sourced from the supplier and during production, through accredited U.S. test labs prior to import. The lamps were tested for compliance across the array of FMVSS No. 108 requirements. HFT contends that the reports demonstrate that the same HaulMaster product meets all of the FMVSS No. 108 requirements to which they were tested. HFT's testing included batches before and after this production week and did not find any test anomalies.
6. Separately, HFT says, NHTSA has recognized the inherent challenges to manufacture all lamps so that each and every test point within the lamp meets the minimum criteria. HFT argues that is the case here. When HFT commissioned Calcoast to review and confirm the performance of these lighting products, every test passed. This indicates that the LED lamps were in fact designed to comply with FMVSS No. 108 and that the results of the monitoring testing indicate an isolated number of random failures in one batch, not a systemic lapse in production processes.⁴
7. Finally, HFT has reviewed its systems and has not received any reports or complaints about the levels of brightness for these trailer lighting kits. HFT contends that the lack of

² Grant of Petition of General Motors; 61 FR 1663, January 22, 1996.

³ Grant of Petition of Hella, Inc., 55 FR 37601, September 21, 1990.

⁴ Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; 83 FR 51766, October 12, 2018.

reports or indications that the subject trailer lights are either too bright or too dim supports the conclusion that the condition is undetectable to road users such as drivers following a vehicle equipped with either of the lighting products.

HFT concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

HFT's complete petition and all supporting documents are available by logging onto the FDMS website at <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment that HFT no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment under their control after HFT notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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